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In re Application of O'BRIEN et al.
Application No.: 10/575,553
PCT No.: PCT/AU04/01090
Int. Filing: 13 August 2003
Priority Date: 15 August 2002
Attorney Docket No.: None
For: DEEP VEIN PULSATOR LEGGINGS

DECISION ON
PETITION TO REVIVE
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 06 December 2006 in the above-captioned application is hereby **GRANTED** as follows:

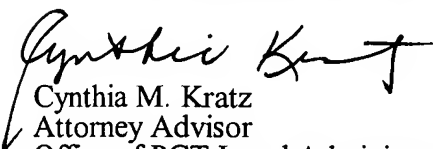
Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of \$150 has been provided. The required petition fee of \$750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Applicant filed a declaration with his request to enter the U.S. national stage. The declaration is executed by Vincent William O'Brien as the sole inventor of the international application. However, a review of the published international application PCT/AU04/01090 reveals that Vincent William O'Brien is not the sole inventor; the publication also identifies Shannon William O'Brien as a joint inventor. Applicant did not provide an Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau deleting Shannon William O'Brien as a co-inventor under PCT Rule 92bis.

The declaration submitted on 06 December 2006 erroneously identifies Vincent William O'Brien as the sole inventor and thus is not in compliance with 37 CFR 1.497(a) and (b). Since there is no indication that Shannon William O'Brien was deleted by the International Bureau under PCT Rule 92bis as a co-inventor, it is improper to accept the declaration which does not identify him as a co-inventor. A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by both inventors is required.

The application will be held in the PCT Legal Office to await applicant's further reply.


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